

Bryan W. Shaw, Ph.D., P.E., *Chairman*
Toby Baker, *Commissioner*
Zak Covar, *Commissioner*
Richard A. Hyde, P.E., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
Protecting Texas by Reducing and Preventing Pollution

April 8, 2014

MR DAVID SPACEK
PLANT MANAGER
KMTX LLC
PO BOX 1421
PORT ARTHUR TX 77641-1421

Re: Permit Amendment Application
Permit Number: 74398
Custom Chemical Processing Facility
Port Arthur, Jefferson County
Regulated Entity Number: RN100640283
Customer Reference Number: CN604105007

Dear Mr. Spacek:

The executive director has made a preliminary decision on the above-referenced application. In accordance with Title 30 Texas Administrative Code § 39.419(b), you are now required to publish Notice of Application and Preliminary Decision. You must provide a copy of this preliminary decision letter with the draft permit at the public place referenced in the public notice.

If you have any questions, please call Dr. Ozden Tamer, Ph.D., P.E. at (512) 239-4577, or write to the Texas Commission on Environmental Quality, Office of Air, Air Permits Division, MC-163, P.O. Box 13087, Austin, Texas 78711-3087.

Sincerely,

A handwritten signature in cursive script that reads "Rebecca Partee".

Rebecca Partee, Manager
Chemical New Source Review Permits Section
Air Permits Division

RP/mot

Enclosure

cc: Air Section Manager, Region 10 - Beaumont

Project Number: 187516

Bryan W. Shaw, Ph.D., P.E., *Chairman*
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MR DAVID SPACEK
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PO BOX 1421
PORT ARTHUR TX 77641-1421

Re: Permit Amendment Application
Permit Number: 74398
Custom Chemical Processing Facility
Port Arthur, Jefferson County
Regulated Entity Number: RN100640283
Customer Reference Number: CN604105007

Dear Mr. Spacek:

The executive director has completed the technical review of your application and has prepared a preliminary decision and draft permit.

You are now required to publish notice of your proposed activity. To help you meet the regulatory requirements associated with this notice, we have included the following items:

- Notices for Newspaper Publication (Examples A and B)
- Public Notice Checklist
- Instructions for Public Notice
- Affidavit of Publication for Air Permitting (Form TCEQ-20533) and Alternative Language Affidavit of Publication for Air Permitting (Form TCEQ-20534)
- Web link to download Public Notice Verification Form (refer to Public Notice Instructions)
- Notification List
- Draft Permit

Please note that it is **very important** that you follow **all** directions in the enclosed instructions. If you do not, you may be required to republish the notice. A common mistake is the unauthorized changing of notice wording or font. If you have any questions, please contact us before you proceed with publication.

A "Public Notice Checklist" is enclosed which notes the time limitations for each step of the public notice process. **The processing of your application may be delayed if these time limitations are not met (i.e.; submitting proof of publication of the notice within 10 business days after publication, affidavits of publication within 30 calendar days after the date of publication, and public notice verification form within**

Mr. David Spacek
Page 2
April 8, 2014

Re: Permit Number: 74398

10 business days after the end of the designated comment period). This checklist should be used as a tool in conjunction with the enclosed, detailed instructions.

If you do not comply with **all** requirements described in the instructions, further processing of your application may be suspended or the agency may take other actions.

If you have any questions regarding publication requirements, please contact the Office of the Chief Clerk at (512) 239-3300. If you have any other questions, please contact Dr. Ozden Tamer, Ph.D., P.E. at (512) 239-4577.

Sincerely,



Bridget C. Bohac
Chief Clerk
Office of the Chief Clerk
Texas Commission on Environmental Quality

BB/mot

Enclosures

cc: Air Section Manager, Region 10 - Beaumont
Air Permits Section Chief, New Source Review, Section (6PD-R), U.S. Environmental
Protection Agency, Region 6, Dallas

Project Number: 187516

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



EXAMPLE A

NOTICE OF APPLICATION AND PRELIMINARY DECISION FOR AN AIR QUALITY PERMIT

PERMIT NUMBER: 74398

APPLICATION AND PRELIMINARY DECISION. KMTEX, LLC, PO Box 1421, Port Arthur, Texas 77641-1421, has applied to the Texas Commission on Environmental Quality (TCEQ) for an amendment to Air Quality Permit Number 74398, which would authorize the replacement of existing boilers at the Custom Chemical Processing Facility located at 2450 Gulfway Dr, Port Arthur, Jefferson County, Texas 77640. This application was submitted to the TCEQ on January 10, 2013. The proposed facility will emit the following contaminants: nitrogen oxides, carbon monoxide, organic compounds, sulfur dioxide, and particulate matter including particulate matter with diameters of 10 microns or less and 2.5 microns or less.

The executive director has completed the technical review of the application and prepared a draft permit which, if approved, would establish the conditions under which the facility must operate. The executive director has made a preliminary decision to issue the permit because it meets all rules and regulations. The permit application, executive director's preliminary decision, and draft permit will be available for viewing and copying at the TCEQ central office, the TCEQ Beaumont regional office, and at the Port Arthur Public Library, 4615 9th Avenue, Port Arthur, Jefferson County, Texas, beginning the first day of publication of this notice. The facility's compliance file, if any exists, is available for public review at the TCEQ Beaumont Regional Office, 3870 Eastex Fwy, Beaumont, Texas.

PUBLIC COMMENT/PUBLIC MEETING. You may submit public comments or request a public meeting about this application. The purpose of a public meeting is to provide the opportunity to submit comment or to ask questions about the application. The TCEQ will hold a public meeting if the executive director determines that there is a significant degree of public interest in the application or if requested by a local legislator. A public meeting is not a contested case hearing. **You may submit additional written public comments within 30 days of the date of newspaper publication of this notice in the manner set forth in the AGENCY CONTACTS AND INFORMATION paragraph below.**

RESPONSE TO COMMENTS AND EXECUTIVE DIRECTOR ACTION. After the deadline for public comments, the executive director will consider the comments and prepare a response to all relevant and material or significant public comments. Because no timely hearing requests have been received, after preparing the response to comments, the executive director may then issue final approval of the application. **The response to comments, along with the executive director's decision on the application will be mailed to everyone who submitted public comments or is on a mailing list for this application, and will be posted electronically to the Commissioners' Integrated Database (CID).**

INFORMATION AVAILABLE ONLINE. When they become available, the executive director's response to comments and the final decision on this application will be accessible through the Commission's Web site at www.tceq.texas.gov/goto/cid. Once you have access to the CID using the above link, enter the permit number for this application which is provided at the top of this notice. This link to an electronic map of the site or

facility's general location is provided as a public courtesy and not part of the application or notice. For exact location, refer to application.

<http://www.tceq.texas.gov/assets/public/hb610/index.html?lat=29.827222&lng=-93.963888&zoom=13&type=r>.

MAILING LIST. You may ask to be placed on a mailing list to obtain additional information on this application by sending a request to the Office of the Chief Clerk at the address below.

AGENCY CONTACTS AND INFORMATION. Public comments and requests must be submitted either electronically at www.tceq.texas.gov/about/comments.html, or in writing to the Texas Commission on Environmental Quality, Office of the Chief Clerk, MC-105, P.O. Box 13087, Austin, Texas 78711-3087. If you communicate with the TCEQ electronically, please be aware that your email address, like your physical mailing address, will become part of the agency's public record. For more information about this permit application or the permitting process, please call the Public Education Program toll free at 1-800-687-4040. Si desea información en Español, puede llamar al 1-800-687-4040.

Further information may also be obtained from KMTEX LLC at the address stated above or by calling Mr. Philip B Evans, Director Technical Services at (281) 446-7070.

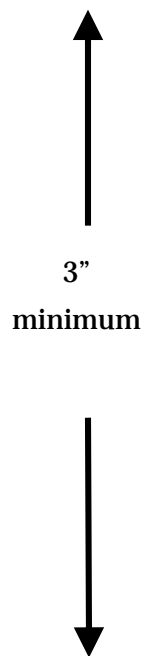
Notice Issuance Date: April 8, 2014

Example B

Publication Elsewhere in the Newspaper:

TO ALL INTERESTED PERSONS AND PARTIES:

KMTEX, LLC, has applied to the Texas Commission on Environmental Quality (TCEQ) for an amendment to Air Quality Permit Number 74398, which would authorize installation of a Custom Chemical Processing Facility located at 2450 Gulfway Dr, Port Arthur, Jefferson County, Texas 77640. Additional information concerning this application is contained in the public notice section of this newspaper.



Public Notice Checklist
Notice of Application and Preliminary Decision for an Air Quality Permit
(2nd Notice)

The following tasks must be completed for public notice. If publication in an alternative language is required, please complete the tasks for both the English and alternative language publications. Detailed instructions are included in the "Instructions for Public Notice" section of this package.

Within 33 calendar days after date of this letter
<p>Publish <i>Notice of Application and Preliminary Decision for an Air Quality Permit</i> in the same newspaper(s) in which you published <i>Notice of Receipt of Intent to Obtain Permit</i> for this application.</p> <ul style="list-style-type: none"> - Example A must be published in "public notice" section of newspaper. Review for accuracy prior to publishing. - Example B (if applicable) must be published in prominent location (other than "public notice") in same issue of newspaper <p>Provide copy of the complete application (including any subsequent revisions) and the executive director's preliminary decision (including the draft permit) at a public place for review and copying. Keep them there for duration of the designated comment period.</p>
First day of newspaper publication
<p>Review published newspaper notice for accuracy. If errors, contact Air Permits Division.</p> <p>Ensure copy of the complete application (including any subsequent revisions) and the executive director's preliminary decision (including the draft permit) are at the public place.</p> <p>It is recommended that the signs from the first notice be in place and be legible and visible until 30 days after publication of the <i>Notice of Application and Preliminary Decision</i> (either English or alternative language notice, whichever is later).</p>
Within 10 business days after date of publication
<p>Mail original proof of publication showing publication date and newspaper name to:</p> <p style="padding-left: 40px;">Texas Commission on Environmental Quality Office of the Chief Clerk, MC-105 Attn: Notice Team P.O. Box 13087 Austin, Texas 78711-3087</p> <p>Mail photocopies of newspaper clippings showing publication date and newspaper name to persons listed on <i>Notification List</i>.</p>
Within 30 calendar days after date of publication
<p>Mail original affidavit of publication for air permitting and alternative language affidavit of publication for air permitting (if applicable) to:</p> <p style="padding-left: 40px;">Texas Commission on Environmental Quality Office of the Chief Clerk, MC-105 Attn: Notice Team P.O. Box 13087 Austin, Texas 78711-3087</p> <p>Mail photocopies of affidavits to persons listed on <i>Notification List</i>.</p>
Within 10 business days after end of the designated comment period
<p>Mail Public Notice Verification Form to:</p> <p style="padding-left: 40px;">Texas Commission on Environmental Quality Office of the Chief Clerk, MC-105 Attn: Notice Team P.O. Box 13087 Austin, Texas 78711-3087</p> <p>Mail photocopies of Public Notice Verification Form to persons listed on <i>Notification List</i>.</p>

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



Instructions for Public Notice For New Source Review Air Permit

Notice of Application and Preliminary Decision

We have completed the technical review of your application and issued a preliminary decision. You must comply with the following instructions:

Review Notice

Included in the notice is all of the information which the commission believes is necessary to effectuate compliance with applicable public notice requirements. Please read it carefully and notify the Texas Commission on Environmental Quality (TCEQ) immediately if it contains any errors or omissions. You are responsible for ensuring the accuracy of all information published. You may not change the text of the notice without prior approval from the TCEQ.

Newspaper Notice

- You must publish the enclosed *Notice of Application and Preliminary Decision for an Air Quality Permit* within **33 calendar days** after the date this information was mailed to you (see date of letter).
- You must publish the enclosed *Notice of Application and Preliminary Decision for an Air Quality Permit* at your expense, in the same newspaper(s) in which you published the *Notice of Receipt and Intent to Obtain Permit* for this application. The newspaper must be a newspaper that is of general circulation in the municipality where the facility is or will be located. If the facility is not located within a municipality, the newspaper must be of general circulation in the municipality nearest the location.
- You must publish this notice in one issue of any applicable newspaper.
- You will find two example notices enclosed in this package. *Example A* must be published in the "public notice" section of the newspaper. The phrase "Example A" is not required to be published. *Example B* must be published in the **same issue** of the newspaper as *Example A*; however, it must be published in a prominent location (other than the public notice section). *Example B* refers the public to the "public notice" section of the newspaper where *Example A* provides more information regarding the permit application.
- *Example B* must be a total of at least **6 column inches (standard advertising units)** with a height of at least **3 inches** and a horizontal dimension of **2 column widths**. If the newspaper chosen does not use standard advertising units for measurement, the notice must be at least **12 square inches** with the shortest side of at least **3 inches**.

- The bold text of the enclosed notice **must** be printed in the newspaper in a font style or size that distinguishes it from the rest of the notice (i.e., **bold, italics**). **Failure to do so may require re-notice.**

Alternative Language Notice

In certain circumstances, applicants for air permits must complete notice in alternative languages.

- Public notice rules require the applicant to determine whether a bilingual program is required at either the elementary or middle school nearest to the facility or proposed facility location. Bilingual education programs are determined on a district-wide basis. When students who are required to attend either school are eligible to be enrolled in a bilingual education program, some alternative language notice is required (newspaper notice).
- Since the school district, and not the schools, must provide the bilingual education program, these programs do not have to be located at the elementary or middle school nearest to the facility or proposed facility to trigger the alternative language notice requirement. If there are students who would normally attend the nearest schools eligible to be taught in a bilingual education program at a different location, alternative language notice is required.
- If triggered, publications of alternative language notices must be made in a newspaper or publication printed primarily in each language taught in the bilingual education program. The same newspaper(s) used for *Notice of Receipt and Intent to Obtain Permit* must be used for publication of the *Notice of Application and Preliminary Decision for an Air Quality Permit*. This notice is required if such a newspaper or publication exists in the municipality or the county where the facility is or will be located.
- The applicant must demonstrate a good faith effort to identify a newspaper or publication in the required language. If a newspaper or publication of general circulation published at least once a month in such language cannot be found, publishing in that language is not required, but signs must remain posted in the same location(s) utilized during the *Notice of Receipt of Intent to Obtain Permit (1st public notice)*.
- Publication in an alternative language section or insertion within an English language newspaper does not satisfy these requirements.
- The applicant has the burden to demonstrate compliance with these requirements. You must fill out the ***Public Notice Verification Form (Form TCEQ-20244)*** indicating your compliance with the requirements regarding publication in an alternative language. **This form is available at www.tceq.texas.gov/permitting/air/nav/air_publicnotice.html.**

- It is suggested the applicant work with the local school district to do the following:
 - (a) determine if a bilingual program is required in the district;
 - (b) determine which language is required by the bilingual program;
 - (c) locate the nearest elementary and middle schools; and
 - (d) determine if any students attending either school are entitled to be enrolled in a bilingual educational program.
- **If you determine that you must meet the alternative language notice requirements, you are responsible for ensuring that the publication in the alternative language is complete and accurate in that language.** Since the most common bilingual programs are in Spanish, the TCEQ has provided example Spanish notice templates for your use. All italic notes should be replaced with the corresponding Spanish translations for the specific application and published in the alternative language publication. Electronic versions of the Spanish templates are available through the Air Permits Division Web site at www.tceq.texas.gov/goto/air/publicnotice.
- If you are required to publish notice in a language other than Spanish, you must translate the entire public notice at your own expense.

Public Comment Period

- The public comment period will last at least **30 calendar days after publication of the last notice**.
- The comment period will be longer if the last day of the public comment period ends on a weekend or a holiday. In this case, the comment period will end on the next business day.
- The comment period for the permit may lengthen depending on whether a public meeting is held. If a public meeting is held, the comment period will be extended to the later of either the date of the public meeting or the end of the second notice period.

Proof of Publication

- Check each publication to ensure that the articles were accurately published. If a notice was not published correctly you may be required to republish.
- For each newspaper in which you published, you must submit proof of publication that shows the notice, the date of publication, and the name of the newspaper to the Office of the Chief Clerk within **10 business days** after the date of publication. Acceptable proofs of publication are 1) copies of the published notice or 2) the original newspaper clippings of the published notice. If you choose to submit copies of the published notice to the Office of the Chief Clerk, copies must be on standard-size 8½" x 11" paper and must show the actual size of the published notice (do not reduce the image when making copies). Published notices longer than 11" must be copied onto multiple 8½" x 11" pages. Please note, submitting a copy of your published notice could result in faster processing of your application. It is recommended that you maintain original newspaper clippings or tear sheets of the notice for your records.
- You must submit an **original affidavit of publication for air permitting and alternate language affidavit of publication for air permitting (if applicable)**

to the Office of the Chief Clerk within **30 calendar days** after the date of publication. **You must use the enclosed affidavit forms.** The affidavits must clearly identify the applicant's name and permit number. You are encouraged to submit the affidavit with the proof of publication described above.

- You must submit the ***Public Notice Verification Form (Form TCEQ-20244)*** to the Office of the Chief Clerk within **10 business days** of the end of this public comment period. You must use this form to certify that you have met bilingual notice requirements. **This form is available at www.tceq.texas.gov/permitting/air/nav/air_publicnotice.html.**
- The **original affidavits of publication, *Public Notice Verification Form*, and acceptable proof of publication of the published notices** must be mailed to:

Texas Commission on Environmental Quality
Office of the Chief Clerk, MC-105
Attn: Notice Team
P.O. Box 13087
Austin, Texas 78711-3087

- Please ensure that the affidavit(s) you send to the Chief Clerk is/are originals and that all blanks on the affidavit are filled in correctly. Photocopies of affidavits will not be accepted.
- Photocopies of newspaper clippings, affidavits, and verifications must also be sent to those listed on the enclosed *Notification List* within the deadlines specified above.

Failure to Publish and Submit Proof of Publication

You must meet all publication requirements. **If you fail to publish the notice or submit proof of publication *on time***, the TCEQ may suspend further processing on your application or take other actions.

Sign Posting

It is recommended that the signs that were put in place prior to publication of the first notice remain in place and be legible and visible until 30 days after publication of the *Notice of Application and Preliminary Decision* (either English or alternative language notice, whichever is later).

Application in a Public Place

- You must provide a copy of the complete application (including any subsequent revisions) and the executive director's preliminary decision (including the draft permit), at a public place for review and copying by the public. This place must be in the county in which the facility is located or proposed to be located.
- A public place is one that is publicly owned or operated (ex: libraries, county courthouses, or city halls.)
- This copy must be accessible to the public for review and copying. The copy must be available beginning on the first day of newspaper publication and remain in place until

the commission has taken action on the application or the commission refers issues to the State Office of Administrative Hearings.

- If the application is submitted to the TCEQ with information marked as “CONFIDENTIAL,” you are required to indicate which specific portions of the application are not being made available to the public. These portions of the application must be accompanied with the following statement: “Any request for portions of this application that are marked as confidential must be submitted in writing, pursuant to the Public Information Act, to the Texas Commission on Environmental Quality, Public Information Coordinator, MC-197, P.O. Box 13087, Austin, Texas 78711-3087.”
- You must submit verification of file availability using the ***Public Notice Verification Form (Form TCEQ-20244)*** within **10 business days** after end of the publications’ designated comment period. Do not submit the form verifying that the application was in a public place until after the comment period is complete. If a public meeting is held or second notice is required causing the public comment period to be extended, at a later date you will be required to verify that the application was in a public place during the entire public comment period. **This form is available at www.tceq.texas.gov/permitting/air/nav/air_publicnotice.html.**

General Information

When contacting the Commission regarding this application, please refer to the permit number at the top of the *Notice of Application and Preliminary Decision*.

If you have questions or need assistance regarding publication requirements, please contact the Office of the Chief Clerk at (512) 239-3300 or the project reviewer listed in the cover letter.

TCEQ-Office of the Chief Clerk
MC-105 Attn: Notice Team
P.O. Box 13087
Austin, Texas 78711-3087

Applicant Name: KMTEx, LLC

Permit No.: 74398

AFFIDAVIT OF PUBLICATION FOR AIR PERMITTING

STATE OF TEXAS §

COUNTY OF _____ §

Before me, the undersigned authority, on this day personally appeared

_____, who being by me duly sworn,
(name of person representing newspaper)

deposes and says that (s)he is the _____
(title of person representing newspaper)

of the _____; that said newspaper is generally circulated
(name of newspaper)

in _____, Texas;
(the municipality or nearest municipality (not county) to the location of the facility or the proposed facility)

that the enclosed notice was published in said newspaper on the following date(s):

(newspaper representative's signature)

Subscribed and sworn to before me this the _____ day of _____, 20____,

to certify which witness my hand and seal of office.

(Seal)

Notary Public in and for the State of Texas

Print or Type Name of Notary Public

My Commission Expires

TCEQ-Office of the Chief Clerk
MC-105 Attn: Notice Team
P.O. Box 13087
Austin, Texas 78711-3087

Applicant Name: KMTEx, LLC

Permit No.: 74398

ALTERNATIVE LANGUAGE AFFIDAVIT OF PUBLICATION FOR AIR PERMITTING

STATE OF TEXAS §

COUNTY OF _____ §

Before me, the undersigned authority, on this day personally appeared

_____, who being by me duly sworn, deposes
(*name of person representing newspaper*)

and says that (s)he is the _____ of the
(*title of person representing newspaper*)

_____ that said newspaper or publication is generally circulated
(*name of newspaper*)

in _____, Texas;
(*the municipality or the same county as the location of the facility or the proposed facility*)

that the enclosed notice was published in said newspaper or publication on the following date(s):

_____.

(*newspaper or publication representative's signature*)

Subscribed and sworn to before me this the ____ day of _____, 20____.

to certify which witness my hand and seal of office.

Notary Public in and for the State of Texas

(Seal)

Print or Type Name of Notary Public

My Commission Expires

Notification List

It is the responsibility of the applicant to furnish the following offices with copies of the notices published, the *Affidavit of Publication for Air Permitting*, the *Alternative Language Affidavit of Publication for Air Permitting (if applicable)*, and a completed copy of the *Public Notice Verification Form (Form TCEQ-20244)*. Acceptable proof of publication and originals of any affidavits and Form TCEQ-20244 should be sent to the Texas Commission on Environmental Quality, Office of the Chief Clerk, MC-105, P.O. Box 13087, Austin, Texas 78711-3087. **Copies** should be sent to the following:

U.S. Environmental Protection Agency
Region 6
Attn: Air Permits Section (6PD-R)
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202-2733

Texas Commission on Environmental Quality
Office of Air
Air Permits Division, MC-163
Dr. Ozden Tamer, Ph.D., P.E.
P.O. Box 13087
Austin, Texas 78711-3087

Texas Commission on Environmental Quality
Beaumont Regional Office
3870 Eastex Fwy
Beaumont, Texas 77703-1830